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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/656,936 | 09/05/2003 | Stephen Potts | 1381-031188 | 8763 |
| 28289 | 7590 | 05/12/2006 | | |
| THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219 | | | EXAMINER A, PHI DIEU TRAN | |
| | | | ART UNIT 3637 | PAPER NUMBER |

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/656,936 | Applicant(s) POTTS, STEPHEN | |
| | Examiner Phi D. A | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election of claims 1-9 in the reply filed on 2/23/06 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 10-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 2/23/06.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowe (1218211).

Rowe shows a clip comprising a body (6) having a first side and a second side, a step portion (3, figure 3), a first prong member (7) projecting outward from the first side of the body, a second prong member (7, the other side) projecting outward from the second side of the body, the clip being of metal material, the body further comprising a flat portion having a second prong member with the first and second prong members extending from opposite sides of the body, the step portion located therebetween on the flat portion of the body (figure 3).

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5. Claims 1-4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated Ellison et al (4570623).

Ellison et al shows a clip comprising a body (3) having a first side and a second side, a step portion (9, figure 2), a first prong member (2) projecting outward from the first side of the body, a second prong member (2, the other side) projecting outward from the second side of the body, the first prong extending in a first direction from the body and the step portion extending in a second direction from the body, the first prong having a pointed end and at least one barb along a length of the first prong member, the clip including a second prong member with the first and second prong members bent transverse to the body in first direction, the step portion is transverse to the body in a second direction.

6. Claims 1-3, 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated Keith et al (5809723).

Keith et al shows a clip comprising a body (60, figure 2) having a first side and a second side, a step portion (58, figure 2), a first prong member (50) projecting outward from the first side of the body, a second prong member (50, the other side) projecting outward from the second side of the body, the first prong extending in a first direction from the body and the step portion extending in a second direction from the body, the clip being polymeric material, the clip including a second prong member with the first and second prong members bent transverse to the body in first direction, the step portion is transverse to the body in a second direction.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe (1218211).

Rowe shows all the claimed limitations except for the step portion having about a 0.25-0.5 inch radius.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rowe's structure to show the step portion having about a 0.25-0.5 inch radius because it would have been an obvious matter of engineering design choice to the step portion having a radius of 0.25-0.5 inch since such dimensions would provide the same function of enhancing the anchoring of the member in concrete.

Conclusion

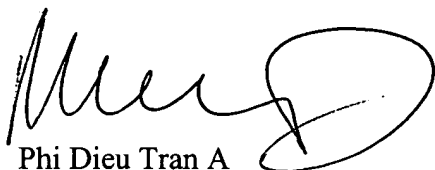
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different clip designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

5/11/06